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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION
10

11 RAMONA PATRICIA CARDON,
12 Plaintiff,

13 vs.

14 PHILLIPS & COHEN ASSOCIATES, LTD., A
15 New Jersey Corporation,
16 Defendant.
17

Case Number C08-00926-JW
ANSWER TO COMPLAINT

18 COMES NOW defendant, PHILLIPS & COHEN ASSOCIATES, LTD., and answers the
19 Complaint filed by plaintiff, RAMONA PATRICIA CARDON as follows:

20 **I. INTRODUCTION**

21 1. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations that defendant
22 violated the referenced statutes but admits the remaining allegations of paragraph 1.

23 2. PHILLIPS & COHEN ASSOCIATES, LTD. admits that the complaint accurately
24 recites the quoted portion of the referenced statute in paragraph 2.

25 **II. JURISDICTION**

26 3. PHILLIPS & COHEN ASSOCIATES, LTD. admits the Court has jurisdiction but
27 denies the balance of the allegations in paragraph 3.

28 4. PHILLIPS & COHEN ASSOCIATES, LTD. admits the Court has jurisdiction but

1 denies the balance of the allegations in paragraph 4.

2 **III. VENUE**

3 5. PHILLIPS & COHEN ASSOCIATES, LTD. admits that venue is proper but denies
4 the balance of the allegations in paragraph 5.

5 **IV. INTRADISTRICT ASSIGNMENT**

6 6. PHILLIPS & COHEN ASSOCIATES, LTD. admits that the requested assignment
7 is proper but denies the balance of the allegations in paragraph 6.

8 **V. PARTIES**

9 7. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 7 for
10 lack of sufficient information to justify a belief therein.

11 8. PHILLIPS & COHEN ASSOCIATES, LTD. admits that it is a New Jersey
12 Corporation located at the referenced address and that it regularly attempts to collect debts alleged
13 to be due another using mail and telephone but denies the remaining allegations in 8 for lack of
14 sufficient information to justify a belief therein.

15 **VI. FACTUAL ALLEGATIONS**

16 9. PHILLIPS & COHEN ASSOCIATES, LTD. admits that plaintiff incurred the
17 referenced financial obligation but denies the remaining allegations of paragraph 9 due to lack of
18 sufficient information to justify a belief therein.

19 10. PHILLIPS & COHEN ASSOCIATES, LTD. admits the allegations of paragraph 10.

20 11. PHILLIPS & COHEN ASSOCIATES, LTD. admits that a collection letter was sent
21 to plaintiff but denies the remaining allegations in paragraph 11 for lack of sufficient information
22 to justify a belief therein.

23 12. PHILLIPS & COHEN ASSOCIATES, LTD. admits that a collection letter was sent
24 to plaintiff but denies the remaining allegations in paragraph 12 for lack of sufficient information
25 to justify a belief therein.

26 13. PHILLIPS & COHEN ASSOCIATES, LTD. admits the allegations of paragraph 13.

27 14. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 14
28 for lack of sufficient information to justify a belief therein.

1 15. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 15
2 for lack of sufficient information to justify a belief therein.

3 16. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 16
4 for lack of sufficient information to justify a belief therein.

5 17. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 17
6 for lack of sufficient information to justify a belief therein.

7 18. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 18

8 19. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 19.

9 20. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 20.

10 21. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 21.

11 **VII. CLAIMS**

12 **FAIR DEBT COLLECTION PRACTICES ACT**

13 22. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 22
14 for lack of sufficient information to justify a belief therein.

15 23. PHILLIPS & COHEN ASSOCIATES, LTD. incorporates herein as if fully set forth
16 its responses to paragraphs 1 through 21 above.

17 24. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 24
18 for lack of sufficient information to justify a belief therein.

19 25. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 25
20 for lack of sufficient information to justify a belief therein.

21 26. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 26
22 for lack of sufficient information to justify a belief therein.

23 27. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 27
24 (a) through (f).

25 28. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 28.

26 29. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 29.

27 **ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT**

28 30. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 30

1 for lack of sufficient information to justify a belief therein.

2 31. PHILLIPS & COHEN ASSOCIATES, LTD. incorporates herein as if fully set forth
3 its responses to paragraphs 1 through 29 above.

4 32. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 32
5 for lack of sufficient information to justify a belief therein.

6 33. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 33
7 for lack of sufficient information to justify a belief therein.

8 34. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 34
9 for lack of sufficient information to justify a belief therein.

10 35. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 35
11 (a) through (f).

12 36. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 36.

13 37. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 37.

14 38. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 38.

15 39. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 39.

16 40. PHILLIPS & COHEN ASSOCIATES, LTD. denies the allegations in paragraph 40
17 for lack of sufficient information to justify a belief therein.

18 **PRAYER**

19 41. In response to the REQUEST FOR RELIEF, PHILLIPS & COHEN ASSOCIATES,
20 LTD. denies that plaintiff is entitled to the relief sought.

21 **AFFIRMATIVE DEFENSES**

22 In further response to plaintiff's complaint, PHILLIPS & COHEN ASSOCIATES, LTD.
23 asserts the following affirmative defenses:

24 **FIRST AFFIRMATIVE DEFENSE**

25 Plaintiff's complaint should be dismissed because the asserted causes of action fail to state
26 claims upon which relief can be granted.

27 **SECOND AFFIRMATIVE DEFENSE**

28 At all times relating to this lawsuit, PHILLIPS & COHEN ASSOCIATES, LTD. and its

1 employees acted in good faith. If there was any wrongful act by PHILLIPS & COHEN
2 ASSOCIATES, LTD. or its employees, which is denied by defendant, such act was not intentional
3 and was the result of a bona fide error.

4 THIRD AFFIRMATIVE DEFENSE

5 PHILLIPS & COHEN ASSOCIATES, LTD. has not violated any law and is entitled to
6 attorney's fees under the FDCPA.

7 FOURTH AFFIRMATIVE DEFENSE

8 Assuming that plaintiff has suffered any damages, plaintiff has failed to mitigate her damages
9 or take other reasonable steps to avoid or reduce her damages.

10 FIFTH AFFIRMATIVE DEFENSE

11 Plaintiff's claims are barred wholly or partially by the applicable statutes of limitation.

12 SIXTH AFFIRMATIVE DEFENSE

13 PHILLIPS & COHEN ASSOCIATES, LTD. affirmatively avers that plaintiff cannot satisfy
14 the necessary burden of proof to recover punitive or liquidated damages under any federal or state
15 law.

16 SEVENTH AFFIRMATIVE DEFENSE

17 PHILLIPS & COHEN ASSOCIATES, LTD. affirmatively avers that any violation by
18 defendant, which defendant denies, was not intentional and resulted notwithstanding the maintenance
19 of procedures reasonably adopted to avoid any such violation.

20 WHEREFORE, considering the premises, PHILLIPS & COHEN ASSOCIATES, LTD.
21 respectfully requests that the Court enter judgment in its favor and award PHILLIPS & COHEN
22 ASSOCIATES, LTD. the costs and attorney's fees it has incurred in defending this lawsuit.

23 Dated: March 3, 2008

24 ERICKSEN, ARBUTHNOT, KILDUFF, DAY & LINDSTROM, INC.

25
26 _____s/Steve W. Dollar_____
27 STEVE W. DOLLAR
28 Attorneys for Defendant